

*Rest In Open Court 7/27/18 (NTD)*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL BUSINESS MACHINES CORPORATION,	)	
	)	
	)	
Plaintiff,	)	C.A. No. 16-122-LPS
	)	
v.	)	<b>JURY TRIAL DEMANDED</b>
	)	
GROUPON, INC.	)	
	)	
Defendant.	)	

**VERDICT FORM**

**INFRINGEMENT**

**QUESTION 1:** Did IBM prove by a preponderance of the evidence that Groupon infringed the following claims of the asserted patents?

*Answer "Yes" or "No" for each claim.*

*"Yes" is a finding for IBM. "No" is a finding for Groupon.*

**'967 Patent**

Claim 1: YES  NO

Claim 2: YES  NO

**'849 Patent**

Claim 1: YES  NO

Claim 8: YES  NO

**'601 Patent**

Claim 51: YES  NO

Claim 54: YES  NO

**'346 Patent**

Claim 1: YES  NO

Claim 5: YES  NO

**WILLFULNESS (ONLY IF APPLICABLE)**

**For each patent you have found to be infringed, answer Question 2.**

**QUESTION 2:** Did IBM prove by a preponderance of the evidence that Groupon's infringement was willful?

*Answer "Yes" or "No" for each patent below.*

*"Yes" is a finding for **IBM**. "No" is a finding for **Groupon**.*

'967 Patent: YES  NO

'849 Patent: YES  NO

'601 Patent: YES  NO

'346 Patent: YES  NO

**LICENSING**

**Question 3:** Did Groupon prove by a preponderance of the evidence that it had an implied license to practice the '346 patent via IBM's licenses to Facebook and Google?

*"Yes" is a finding for Groupon. "No" is a finding for IBM.*

YES \_\_\_\_\_ NO

**Question 4:** Did Groupon prove by a preponderance of the evidence that IBM's rights to assert the '346 patent against Groupon were exhausted via IBM's licenses to Facebook and Google?

*"Yes" is a finding for Groupon. "No" is a finding for IBM.*

YES \_\_\_\_\_ NO

**INVALIDITY**

**QUESTION 5:** Did Groupon prove by clear and convincing evidence that the following claims of the asserted patents are invalid?

*Answer "Yes" or "No" for each claim.*

*"Yes" is a finding for **Groupon**. "No" is a finding for **IBM**.*

**'601 Patent**

Claim 51: YES \_\_\_\_\_ NO ✓

Claim 54: YES \_\_\_\_\_ NO ✓

**'346 Patent**

Claim 1: YES \_\_\_\_\_ NO ✓

Claim 5: YES \_\_\_\_\_ NO ✓

**DAMAGES (ONLY IF APPLICABLE)**

**Only answer Question 6 if you found one or more of the following:**

- **With respect to the '967 and '849 patents, you found at least one claim to be infringed in Question 1.**
- **With respect to the '601 patent, you found at least one claim to be infringed in Question 1 and also did not find that same claim invalid in Question 5.**
- **With respect to the '346 patent, you found at least one claim to be infringed in Question 1 and also did not find that same claim invalid in Question 5 and further answered "No" to both Questions 3 and 4.**

**QUESTION 6:** What sum of money, if paid now in cash, do you find IBM has proven by a preponderance of the evidence would fairly and reasonably compensate IBM for Groupon's infringement of IBM's patent or patents?

\$ 82.5 million

You have now reached the end of the verdict form and you should review it to ensure it accurately reflects your unanimous determinations. You must each sign the verdict form in the spaces below and notify the Jury Officer after you have reached a unanimous verdict.

Jury Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror



Dated: 7/27/2018